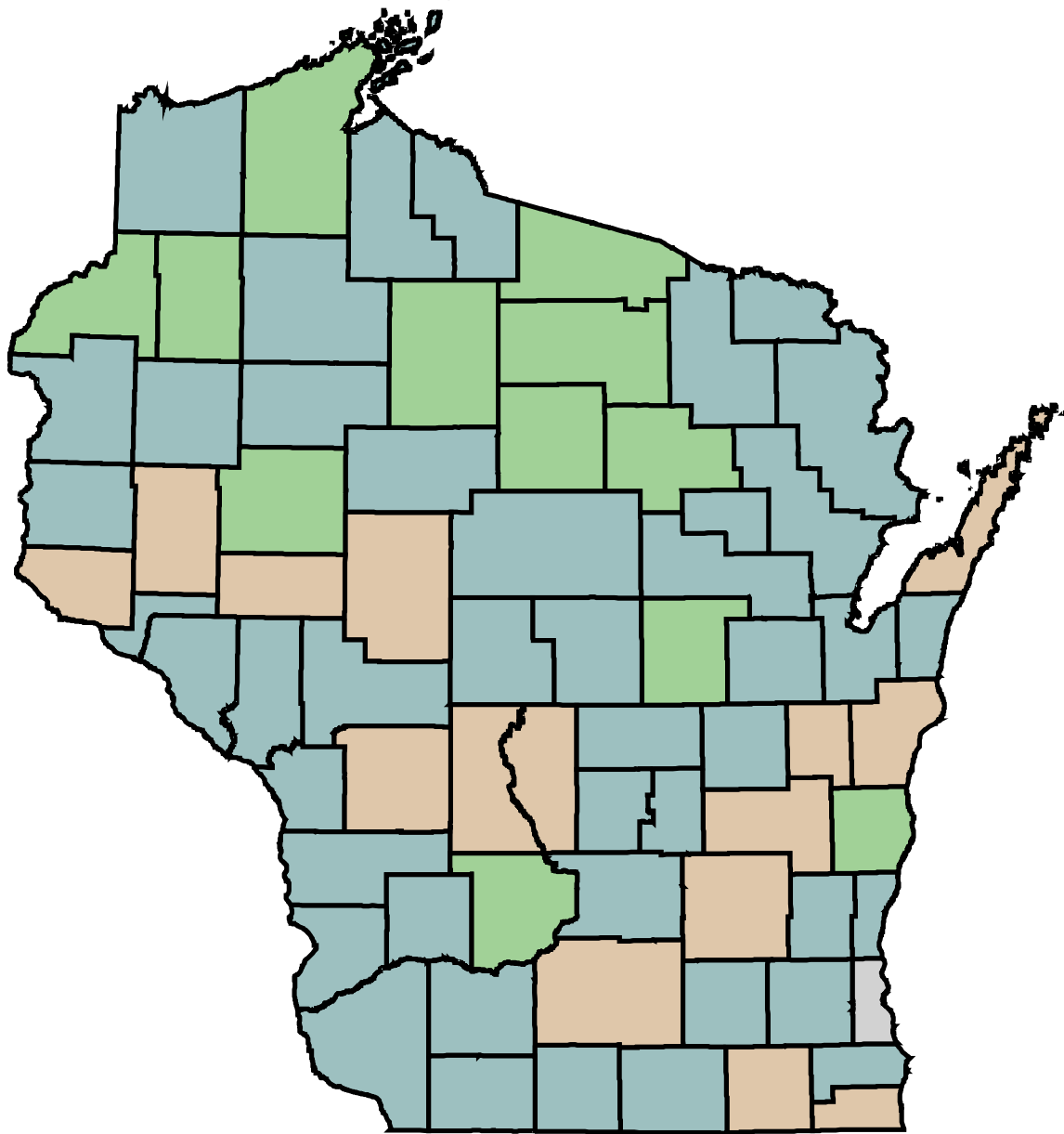






# Nonconforming Structure Standards



-  County is not regulated under NR 115.
-  County uses a variation of the 50% rule to regulate additions and alterations to nonconforming structures.
-  County requires alterations or additions to nonconforming structures to comply with shoreland ordinance or to not increase nonconformity.
-  County regulates nonconforming structures based on distance of structure to OHWM and/or total area of structure.

# ***NONCONFORMING STRUCTURES ISSUE SUMMARY***

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## ***MANAGEMENT RATIONALE***

A use, a lot, or a structure may be nonconforming. If it was lawfully established prior to the adoption or amendment of a zoning ordinance, but is now inconsistent with current zoning standards, it is considered to be a “legal nonconforming” use, lot or structure.

A nonconforming structure is a structure whose dimensions, location or other physical characteristics do not conform to the standards of the current zoning ordinance, although the use of the structure conforms to the requirements of the ordinance. An example is a home that was built 50 feet from the ordinary high water mark prior to the adoption of a shoreland zoning ordinance that requires a 75 foot structural setback from the ordinary high water mark and permits residential uses in the area in question. This section primarily addresses nonconforming principal structures.

Effectively managing nonconforming structures in the shoreland zone has the potential to:

- enhance the quality of the near shore zone and shoreland area by maintaining adequate vegetative cover and minimizing the degree of hard surface area, to reduce runoff and provide better habitat;
- encourage development, improvements or additions that are consistent with and not contradictory to objectives of a shoreland management ordinance;
- protect or restore the natural beauty of a shoreline; and
- improve water quality.

## ***MINIMUM STATEWIDE STANDARDS***

The Wisconsin Supreme Court has established that “the general purpose of a zoning ordinance is to restrict uses of buildings according to the terms of the ordinance and to require conformance as speedily as it may under all the circumstances reasonably be accomplished.” State ex rel Morehouse v. Hunt, 235 Wis 358 at 370 (1940).

Chapter NR 115, Wis. Admin. Code, reflects this concept by permitting the continued use, including routine maintenance, of a legally established building, structure or property that existed at the time an ordinance took effect, which is not in conformity with the provisions of the ordinance. However, chapter NR 115 also reflects the fact that, under section 59.69 (10), Wis. Stats., counties may prohibit alterations, additions, or repairs, over the life of the building or structure in excess of 50% of the equalized assessed value of an existing nonconforming building or structure may be prohibited. This is often referred to as the “50% rule”. (See section NR 115.05(3)(e).)

In 1997, the Wisconsin Attorney General issued an opinion which states that while counties are not required to adopt the 50% valuation cap for additions or improvements to shoreland nonconformities, counties must employ a policy which requires nonconformities to be eliminated rather than perpetuated, and eventually the structure must be brought into compliance with the ordinance (The opinion of the Attorney

General cites Waukesha County v. Pewaukee Marina Inc., 187 Wis. 2d 18; 22-24, 522 N.W.2d 536 (Ct. App. 1994), among other decisions.)

### ***RELATED RESEARCH***

The goal of regulating nonconforming structures is to require eventual compliance while allowing continued reasonable use of the structures. This is accomplished through placing limits on the property's ability to expand, alter and reconstruct nonconforming structures.

Many communities rely on the 50% rule to regulate nonconforming principal structures, even though it is difficult to administer at best, since it has numerous practical difficulties related to its application. One issue is how is the 50% valuation determined – is it the current assessed value; equalized assessed value; or appraised fair market value? Or the value at time that the structure became nonconforming?

Another issue is the definition of “structural repairs”. Many counties have found it necessary to define the term in their ordinance. The Wisconsin Supreme Court has found that “structural repairs” should not include efforts to modernize structures (installing heating, plumbing or electricity) and those repairs necessary to prevent deterioration of the structure (Ohm 1999). It is often not easy to draw the line between “structural repairs” and “routine maintenance, or to obtain accurate cost estimates for the proposed work.

These practical difficulties in the regulation of nonconforming structures have lead to many innovative approaches to limiting the expansion of nonconforming structures and mitigating the impacts of such expansion.

### ***MANAGEMENT INITIATIVES***

The historical approach for controlling nonconforming principal structures has consisted of limiting the total cost of additions and structural improvements or repairs to nonconforming structures to 50% of the current equalized assessed value or fair market value of the nonconforming structure. If a proposed addition or structural improvement or repair would result in the total lifetime costs exceeding 50% of the equalized assessed value or fair market value of the structure, the addition, improvement or repair would be limited to what could be done within the 50% limit. The 50% rule is generally considered ineffective in terms of encouraging property owners to replace nonconforming structures with conforming ones due largely to inconsistent interpretation of the rule and the difficulty in tracking additions and structural improvements and repairs over the lifetime of the structure.

A possible change to the 50% rule is to limit additions and structural improvements or repairs to 50% of the assessed value of the structure at the time it became nonconforming. Smaller additions and fewer structural improvements or repairs would be permitted if this change were made, but determining what the assessed value of the property was at the time that the structure became nonconforming may be a time-consuming process.

An alternative to the 50% rule permits certain alterations, structural improvements and repairs, and reconstruction if the nonconformity of the structure is not increased or does not encroach further into the shoreland setback. For example, a county may allow alterations to a structure if all the work is contained within the existing building footprint, resulting in no increase in the dimensional nonconformity. Under some ordinances, mitigation measures are also required. This strategy tends to maintain the status quo, however. There is very little incentive for the property to replace a nonconforming structure with a conforming one.

Another option used by some counties is to prohibit or limit additions and other alterations based on the distance of the structure from the ordinary high water mark and/or the structure's total floor area. This technique usually results in maintaining structures closest to the water, and limits enlargement of structures farthest from the water. Mitigation is often used in conjunction with this technique requiring the restoration of shoreland vegetated buffers, removal of nonconforming accessory structures, and use of earth-tone building materials.

#### **CONSIDERATIONS**

- What have been the historic difficulties in administering your community's nonconforming structure regulations?
- What types of variances are most requested? Can those issues be addressed in a different policy for regulating nonconforming structures?
- Consider striving for "functional" compliance for nonconforming principal structures farthest from the water. In other words, limited expansion and limited improvements could be allowed in exchange for mitigation practices that protect water quality, wildlife habitat, and natural scenic beauty.
- Consider one-time limited expansion that is recorded at the Register of Deeds Office via an affidavit to eliminate multiple expansions of nonconforming principal structures.
- Define what changes are allowed to nonconforming structures without a permit and what changes require a permit.

#### **BIBLIOGRAPHY**

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Abbreviations used in the following table are:

LUP = Land use permit

NC = Nonconforming or nonconformity

NCPS = Nonconforming principal structure  
NCS = Nonconforming structure  
OHWM = Ordinary high water mark  
PEAV = Present equalized assessed value  
PS = Principal structure  
SEP = Special exception permit

# Nonconforming Structure Standards

<i>County</i>	<i>Maintenance</i>	<i>Horizontal Additions</i>	<i>Vertical Additions</i>	<i>Basements</i>	<i>Demolition</i>
Adams	NCS cannot be unused for 12 cons. monthes or must be brought into compliance. Repairs can't exceed 50% of equalized assessed value over life of bldg.	Addition cannot encroach farther into setback than permitted, even if addition is less than 50% of assessed value.	Addition cannot encroach farther into setback than permitted, even if addition is less than 50% of assessed value.	Addition cannot encroach farther into setback than permitted, even if addition is less than 50% of assessed value.	Not addressed in county's shoreland zoning ordinance.
Ashland	Routine maintenance conditional incl. no struct. alter. or repair to NCS over its life to exceed 50% of current est. fair market value.	No struct. alter., addition or repair to NCS over its life to exceed 50% of current est. fair market value, unless it conforms to ordinance.	No struct. alter., addition or repair to NCS over its life to exceed 50% of current est. fair market value, unless it conforms to ordinance.	No struct. alter., addition or repair to NCS over its life to exceed 50% of current est. fair market value, unless it conforms to ordinance.	Not addressed in county's shoreland zoning ordinance.
Barron	Repairs & improvements of maintenance nature are allowed.	If alteration/addition alters exterior dimen. & conforms to dimen. rules, allowed. If it does not increase NC, ok if not >50% of full market value.	If alteration/addition alters exterior dimen. & conforms to dimen. rules, allowed. If it does not increase NC, ok if not >50% of full market value.	If alteration/addition alters exterior dimen. & conforms to dimen. rules, allowed. If it does not increase NC, ok if not >50% of full market value.	If NCS damaged by fire, act of God or public enemy to extent of >50% its full market value, it shall not be restored except as a special exception.
Bayfield	NCS<600 s.f., NCS<40' from OHWM & NCAS allowed ordin. mainten. & repair. Extern. improve if NCS<40' from OHWM, >600 s.f., limited to 25% of struct. members & w/i bldg. env.	NCPS 40'-75' from OHWM & >600 s.f. expand on landward side of struct. if max. 25% of struct. members replaced, enclosed dwelling space max. 1500 s.f., max. 1900 s.f. of roof, max. 26' tall.	NCPS 40'-75' from OHWM & >600 s.f. expand on landward side of struct. if max. 25% of struct. members replaced, enclosed dwelling space max. 1500 s.f., max. 1900 s.f. of roof, max. 26' tall.	NCS 40'-75' from OHWM & >600 s.f. may have new basements constructed under permitted additions only. No new or raised basements for existing struct. or attached AS.	NCS damaged by natural event may be reconstructed. If damage is due to intentional act of owner, repairs must comply w/ ordinance. Req. mitigation.
Brown	No repair to any NCS over life of struct. shall exceed 50% of its assessed value at time of its becoming NC unless permanently changed to conforming.	Can't expand or enlarge NCS exc. in conformity. No struct. alter. or addition to NCS over life of NCS shall be >50% of assessed value at time of NC.	Can't expand or enlarge NCS exc. in conformity. No struct. alter. or addition to NCS over life of NCS shall be >50% of assessed value at time of NC.	Can't expand or enlarge NCS exc. in conformity. No struct. alter. or addition to NCS over life of NCS shall be >50% of assessed value at time of NC.	Not addressed in county's shoreland zoning ordinance.
Buffalo	Routine maintenance may continue if over life of bldg. repair does not exceed 50% of current est. fair market value, unless brought into compliance.	Alterations or additions over life of bldgs. cannot exceed 50% of current est. fair market value unless brought into compliance.	Alterations or additions over life of bldgs. cannot exceed 50% of current est. fair market value unless brought into compliance.	Alterations or additions over life of bldgs. cannot exceed 50% of current est. fair market value unless brought into compliance.	Not addressed in county's shoreland zoning ordinance.

<i>County</i>	<i>Maintenance</i>	<i>Horizontal Additions</i>	<i>Vertical Additions</i>	<i>Basements</i>	<i>Demolition</i>
Burnett	NCPS <40' from OHWM (1)max. 25% struct. members replaced, (2)confined to bldg. envelope, (3)NCAS removed & (4)restore shoreline buffer.	NCPS 40'-75' from OHWM & 500+ s.f., (1)max. 1500 s.f. post-total, (2)1-time 144 s.f. add. even w/ shore façade, (3)NCAS removed (4)restore buffer.	Not allowed on NCPS less than 40' from OHWM or less than 500 s.f.	No new basements or walkout basements under existing structures.	Not addressed in county's shoreland zoning ordinance.
Calumet	No enlarging or altering NCS to increase its NC, but may alter to decrease NC. Alter legal NC resid. struct. (NC setback) if not incr. encroachment.	No enlarging or altering NCS to increase its NC, but may alter to decrease NC. Alter legal NC resid. struct. (NC setback) if not incr. encroachment.	Cannot increase nonconformity, but may alter to decrease NC. Alter legal NC resid. struct. (NC setback) if not incr. encroachment & 2/3 setback met.	No enlarging or altering NCS to increase its NC, but may alter to decrease NC. Alter legal NC resid. struct. (NC setback) if not incr. encroachment.	If NCS or NC portion destroyed by any means >50% of its equalized assessed valuation at time of destruction, reconstruct only in conformity.
Chippewa	Routine maintenance may continue w/ conditions, incl. complying with shoreline cutting regulations.	1-time addition not to exceed 50% of NCS area, not >1800 s.f. w/i 75' of water. No side add. w/i 50' of OHWM. Side add. max. 50% of NCS width.	No addition to any part of a NCS can exceed the height of that part of original struct. that is NC.	1-time addition not to exceed 50% of NCS area, not >1800 s.f. w/i 75' of water. No side add. w/i 50' of OHWM. Side add. max. 50% of NCS width.	If NCS is destroyed by fire, wind or other disaster, it cannot be rebuilt unless in conformity with all ordinance requirements.
Clark	Routine maintenance permitted w/ conditions, incl. any addition, alteration or repair of a NCS may not increase the setback NC of the structure.	Any addition, alteration or repair of a NCS may not increase the setback NC of the structure. If NC use discount. 12 months, future use must conform.	Any addition, alteration or repair of a NCS may not increase the setback NC of the structure. If NC use discount. 12 months, future use must conform.	Any addition, alteration or repair of a NCS may not increase the setback NC of the structure.	If NCS destroyed by fire, wind, etc., it must be rebuilt in conformity. Destroyed = total cost restoration >50% of present equalized assessed value.
Columbia	Routine maintenance may continue if over life of bldg. repair does not exceed 50% of current est. fair market value, unless brought into compliance.	Alterations or additions over life of bldgs. cannot exceed 50% of current est. fair market value unless brought into compliance.	Alterations or additions over life of bldgs. cannot exceed 50% of current est. fair market value unless brought into compliance.	Alterations or additions over life of bldgs. cannot exceed 50% of current est. fair market value unless brought into compliance.	Not addressed in county's shoreland zoning ordinance.
Crawford	Routine maintenance may continue if repair does not exceed 50% of current est. fair market value, unless brought into compliance.	Alterations or additions cannot exceed 50% of current est. fair market value unless brought into compliance.	Alterations or additions cannot exceed 50% of current est. fair market value unless brought into compliance.	Alterations or additions cannot exceed 50% of current est. fair market value unless brought into compliance.	Not addressed in county's shoreland zoning ordinance.
Dane	Any bldg. lawfully built prior to ordinance which is NC in setback, etc. may be continued in use, but future additions or struct. alter. must conform & limited to 50% of assess value at time of NC.	Any bldg. lawfully built prior to ordinance which is NC in setback, etc. may be continued in use, but future additions or struct. alter. must conform & limited to 50% of assess value at time of NC.	Any bldg. lawfully built prior to ordinance which is NC in setback, etc. may be continued in use, but future additions or struct. alter. must conform & limited to 50% of assess value at time of NC.	Any bldg. lawfully built prior to ordinance which is NC in setback, etc. may be continued in use, but future additions or struct. alter. must conform & limited to 50% of assess value at time of NC.	If destroyed by 50% or more, must be reconstructed in compliance.

<b>County</b>	<b>Maintenance</b>	<b>Horizontal Additions</b>	<b>Vertical Additions</b>	<b>Basements</b>	<b>Demolition</b>
Dodge	Lawful NCS existing at time of ordinance adoption or amendment may continue although it does not conform w/ lot, area, yard or setback provisions.	Additions or enlargements are permitted only if bldg. conforms w/ req. setbacks, & lot conforms w/ existing sanitary code or is served by sewer.	Additions or enlargements are permitted only if bldg. conforms w/ req. setbacks, & lot conforms w/ existing sanitary code or is served by sewer.	Additions or enlargements are permitted only if bldg. conforms w/ req. setbacks, & lot conforms w/ existing sanitary code or is served by sewer.	Existing NCS damaged by fire, flood, etc. can be reconstructed & shall conform as far as practicable w/setbacks. Lot must be up to sanitary code.
Door	Struct. alter. or repairs shall meet all provisions of ordinance, exc. setback or yard req. if no increase in floor area or change in footprint.	Additions or extensions to NCS permitted provided that they comply w/ all provisions of ordinance (setbacks, max. imperv. surfaces, etc.)	Additions or extensions to NCS permitted provided that they comply w/ all provisions of ordinance (setbacks, max. imperv. surfaces, etc.)	Additions or extensions to NCS permitted provided that they comply w/ all provisions of ordinance (setbacks, max. imperv. surfaces, etc.)	Destroyed NCS may be repaired or restored if (1)brought into compliance or (2)repair fully within footprint of struct. & no incr. in floor area.
Douglas	Struct. repairs & alterations shall not >50% of assessed value at time of repair/alteration w/o County Board approval, unless compliance results.	Struct. repairs & alterations shall not >50% of assessed value at time of repair/alteration w/o County Board approval, unless compliance results.	Struct. repairs & alterations shall not >50% of assessed value at time of repair/alteration w/o County Board approval, unless compliance results.	The lowest floor level must be 4' above the highest groundwater level. Alterations cannot >50% assessed value w/o County Board approval.	Not addressed in county's shoreland zoning ordinance.
Dunn	NC status cannot be achieved simply due to setback, must also be in floodplain, regardless normal maintenance is allowed.	If in floodplain too, additions allowed provided they do not intensify nonconformity. Additions cannot exceed the total s.f. of the existing struct.	If in floodplain too, additions allowed provided they do not intensify nonconformity. Additions cannot exceed the total s.f. of the existing struct.	If in floodplain too, additions allowed provided they do not intensify nonconformity. Additions cannot exceed the total s.f. of the existing struct.	NCS destroyed or damaged >50% by fire, flood etc. shall not be replaced unless it is in full compliance.
Eau Claire	Normal maintenance is allowed.	Structural repairs, alterations and expansions permitted, provided nonconforming nature of structure is not intensified.	Structural repairs, alterations and expansions permitted, provided nonconforming nature of structure is not intensified.	Structural repairs, alterations and expansions permitted, provided nonconforming nature of structure is not intensified.	Structure damaged or destroyed by deliberate act of landowner, or due to general deterioration, may not be rebuilt or repaired, except in conformance.
Florence	NCS can be maintained as long as a NC use does not discontinue for 12 consecutive monthes.	No structural alteration, addition or repair can over the life of the bldg., exceed 50% of the fair market value, unless brought into compliance.	No structural alteration, addition or repair can over the life of the bldg., exceed 50% of the fair market value, unless brought into compliance.	The lowest floor elevation must be 2' above OHWM. No additions can over the life of the bldg., exceed 50% of the current estimated fair market value.	Not addressed in county's shoreland zoning ordinance.
Fond du Lac	Maintenance may continue w/ conditions incl. if use is discont. for 12 monthes, any future use shall conform to ordinance.	Additions & improvements to conforming uses permitted provided no encroachment on existing roads & yard setbacks & conform to ordinance.	Additions & improvements to conforming uses permitted provided no encroachment on existing roads & yard setbacks & conform to ordinance.	Additions & improvements to conforming uses permitted provided no encroachment on existing roads & yard setbacks & conform to ordinance.	Replacement of conforming uses permitted provided no encroachment on existing roads & yard setbacks & conform to ordinance.



<i>County</i>	<i>Maintenance</i>	<i>Horizontal Additions</i>	<i>Vertical Additions</i>	<i>Basements</i>	<i>Demolition</i>
Forest	No struct. alteration, addition or repair shall over life of struct. exceed 50% of CEAV unless permanently changed to conforming.	Additions to NCS landward only & limited to 1/2 of total s.f. of existing struct. & must meet 50% rule. Req. mitigation.	Additions to NCS landward only & limited to 1/2 of total s.f. of existing struct., max. 25' tall & must meet 50% rule. Req. mitigation.	No struct. alteration, addition or repair shall over life of struct. exceed 50% of CEAV unless permanently changed to conforming.	If NCS damaged by violent wind, fire, etc. rebuild as prior to damage & req. mitigation. If damaged by owner or deterioration, rebuild in conformance.
Grant	Cond. routine mainten. incl. no repair to any NCS over life of struct. shall exceed 50% of its current est. fair market value, unless made conforming.	No struct. alter., addition or repair to any NCS over life of struct. shall exceed 50% of its current est. fair market value, unless made conforming.	No struct. alter., addition or repair to any NCS over life of struct. shall exceed 50% of its current est. fair market value, unless made conforming.	No struct. alter., addition or repair to any NCS over life of struct. shall exceed 50% of its current est. fair market value, unless made conforming.	Not addressed in county's shoreland zoning ordinance.
Green	Routine mainten. if no repair to NCS over life of struct. shall exceed 50% of equalized assessed value when it became NC unless made conforming.	No struct. alter., addition or repair to NCS over life of struct. shall exceed 50% of equalized assessed value when became NC unless made conforming.	No struct. alter., addition or repair to NCS over life of struct. shall exceed 50% of equalized assessed value when became NC unless made conforming.	No struct. alter., addition or repair to NCS over life of struct. shall exceed 50% of equalized assessed value when became NC unless made conforming.	Not addressed in county's shoreland zoning ordinance.
Green Lake	Conditional routine maintenance if no repair to bldg. or struct. over its life exceeds 50% of current est. fair market value unless made compliant.	No struct. alter., addition or repair to bldg. or struct. over its life exceeds 50% of current est. fair market value unless made compliant.	No struct. alter., addition or repair to bldg. or struct. over its life exceeds 50% of current est. fair market value unless made compliant.	No struct. alter., addition or repair to bldg. or struct. over its life exceeds 50% of current est. fair market value unless made compliant.	Not addressed in county's shoreland zoning ordinance.
Iowa	Cond. routine mainten. incl. no repair to any NCS over life of struct. shall exceed 50% of its current est. fair market value, unless made conforming.	No struct. alter., addition or repair to any NCS over life of struct. shall exceed 50% of its current est. fair market value, unless made conforming.	No struct. alter., addition or repair to any NCS over life of struct. shall exceed 50% of its current est. fair market value, unless made conforming.	No struct. alter., addition or repair to any NCS over life of struct. shall exceed 50% of its current est. fair market value, unless made conforming.	Not addressed in county's shoreland zoning ordinance.
Iron	Repairs shall not during life of struct. exceed 50% of fair market value, when struct. became NC. If costs >50% value, can change to conforming.	Struct. alterations shall not during life of struct., exceed 50% of fair market value, at time of NC. If costs >50% value, can change to conforming.	Struct. alterations shall not during life of struct., exceed 50% of fair market value, at time of NC. If costs >50% value, can change to conforming.	Lowest level must be at least 4' above highest ground water level.	Not addressed in county's shoreland zoning ordinance.
Jackson	NCS can be maintained as long as a NC use does not discontinue for 12 consecutive monthes.	No structural alteration, addition or repair can exceed 50% of its fair market value, at time of NC, unless brought into compliance.	No structural alteration, addition or repair can exceed 50% of its fair market value, at time of NC, unless brought into compliance.	No structural alteration, addition or repair can exceed 50% of its fair market value, at time of NC, unless brought into compliance.	Not addressed in county's shoreland zoning ordinance.

<i>County</i>	<i>Maintenance</i>	<i>Horizontal Additions</i>	<i>Vertical Additions</i>	<i>Basements</i>	<i>Demolition</i>
Jefferson	A NCS shall not be extended, enlarged, reconstructed, moved or struct. altered in excess of 50% of its current fair market value.	A NCS shall not be extended, enlarged, reconstructed, moved or struct. altered in excess of 50% of its current fair market value.	A NCS shall not be extended, enlarged, reconstructed, moved or struct. altered in excess of 50% of its current fair market value.	A NCS shall not be extended, enlarged, reconstructed, moved or struct. altered in excess of 50% of its current fair market value.	Not addressed in county's shoreland zoning ordinance.
Juneau	Maintenance may continue with conditions, incl. if use is discontinued for 12 monthes, any future use will conform to ordinance.	Not addressed in county's shoreland zoning ordinance.	Not addressed in county's shoreland zoning ordinance.	Not addressed in county's shoreland zoning ordinance.	If NCS is destroyed, may be replaced if (1)rebuilt as conforming (2)property rezoned or (3)owner appeals determination.
Kenosha	If the structure met yard req. at construction, alterations permitted if it doesn't create a greater degree of encroachment on yard, height, etc. req.	If the structure met yard req. at construction, alterations permitted if it doesn't create a greater degree of encroachment on yard, height, etc. req.	If the structure met yard req. at construction, alterations permitted if it doesn't create a greater degree of encroachment on yard, height, etc. req.	If the structure met yard req. at construction, alterations permitted if it doesn't create a greater degree of encroachment on yard, height, etc. req.	Structures damaged by fire, explosion or other calamity may be reconstructed and in so far as practicable shall conform with ordinance.
Kewaunee	Routine maintenance permitted. No repair over life of bldg. shall exceed 50% of its current estimated market value, unless changed to conforming.	No addition, alteration or repair over life of bldg. shall exceed 50% of its current estimated market value, unless changed to conforming.	No addition, alteration or repair over life of bldg. shall exceed 50% of its current estimated market value, unless changed to conforming.	No addition, alteration or repair over life of bldg. shall exceed 50% of its current estimated market value, unless changed to conforming.	Not addressed in county's shoreland zoning ordinance.
La Crosse	Routine maintenance permitted. No repair over life of NCS shall exceed 50% of its current est. fair market value, unless changed to conforming.	No struct. alteration, addition or repair over life of NCS shall exceed 50% of its current estimated fair market value, unless changed to conforming.	No struct. alteration, addition or repair over life of NCS shall exceed 50% of its current estimated fair market value, unless changed to conforming.	No struct. alteration, addition or repair over life of NCS shall exceed 50% of its current estimated fair market value, unless changed to conforming.	Not addressed in county's shoreland zoning ordinance.
Lafayette	Routine maintenance conditionally, inc. no repair over life of struct. shall exceed 50% of current est. fair market value, unless made conforming.	No struct. alteration, addition, or repair over life of struct. shall exceed 50% of current est. fair market value, unless made conforming.	No struct. alteration, addition, or repair over life of struct. shall exceed 50% of current est. fair market value, unless made conforming.	No struct. alteration, addition, or repair over life of struct. shall exceed 50% of current est. fair market value, unless made conforming.	Not addressed in county's shoreland zoning ordinance.
Langlade	NCPS allowed ordinary repair & maintenance incl. replacement of windows, doors, roofing, siding, & upgrading of insulation.	600+ s.f. NCPS > 50' from OHWM, (1)landward addition or w/i req. setback, (2)max. 1500 s.f. total for bldg. (2000 s.f. if > 75') (3)mitigation req.	No vertical expansions permitted for NCPS.	No new basements permitted on NCPS	Not addressed in county's shoreland zoning ordinance.

<b>County</b>	<b>Maintenance</b>	<b>Horizontal Additions</b>	<b>Vertical Additions</b>	<b>Basements</b>	<b>Demolition</b>
Lincoln	Ordinary maintenance permitted.	NCPS can expand if (1)>40' from OHWM, expand rearward or beyond 75' of OHWM & max. 1500 s.f. footprint or (2)is changed to conforming.	NCPS can expand if (1)>40' from OHWM, expand rearward or beyond 75' of OHWM & max. 1500 s.f. footprint or (2)is changed to conforming.	NCPS can expand if >40' from OHWM, expand rearward or beyond 75' of OHWM & max. 1500 s.f. footprint & 2' above experienced high water elevation.	NCS damaged or destroyed after 10/14/97 by violent wind, vandalism, fire or flood may be restored consistent w/ provisions of 59.692(1s) Stats.
Manitowoc	Dimensional NC (setbacks) may be repaired if floodproofed in floodplain & if exterior changed, but conform to dimensional req. are permitted.	Dimensional NC (setbacks) may be repaired if floodproofed in floodplain & if exterior changed, but conform to dimensional requirements.	Dimensional NC (setbacks) may be repaired if floodproofed in floodplain & if exterior changed, but conform to dimensional requirements.	Dimensional NC (setbacks) may be repaired if floodproofed in floodplain & if exterior changed, but conform to dimensional requirements.	Any NCS destroyed or damaged by fire, act of god, etc. >50% of present equalized assessed value at time of damage, shall thereafter be conforming.
Marathon	Repairs & improvements of a maintenance nature allowed.	May not increase dimensional NC. With SEP, alter., addition or repair may change ext. dim, but not exceed 50% of equalized assessed value. Additions at setback not limited by value.	May not increase dimensional NC. With SEP, alter., addition or repair may change ext. dim, but not exceed 50% of equalized assessed value.	May not increase dimen. NC. With SEP, alter. or addition may change ext. dim, but not exceed 50% of equalized assessed value. Setback=2' above OHWM & 2' above regional flood for walkouts.	If demolished, removed, or damaged >50% of current equalized assessed value, may not restore unless conforming.
Marinette	Routine maintenance continue if use not discontinued 12 monthes or repairs over life of struct. do not exceed 50% of current est. fair market value.	No struct. alter., addition or repair over life of bldg. to exceed 50% of its current est. fair market value, unless made compliant.	No struct. alter., addition or repair over life of bldg. to exceed 50% of its current est. fair market value, unless made compliant.	No struct. alter., addition or repair over life of bldg. to exceed 50% of its current est. fair market value, unless made compliant.	Not addressed in county's shoreland zoning ordinance.
Marquette	Maintenance allowed w/ conditions incl. no repair over life of struct. shall exceed 50% of its current fair market value, unless made conforming.	No struct. alteration, addition or repair over life of struct. shall exceed 50% of its current fair market value, unless made conforming.	No struct. alteration, addition or repair over life of struct. shall exceed 50% of its current fair market value, unless made conforming.	All bldgs. & struct. must be elevated min. 2' above OHWM. No struct. alter. over life of struct. shall exceed 50% of its current fair market value.	Not addressed in county's shoreland zoning ordinance.
Menominee	Normal maintenance is allowed.	Allow struct. repairs, alter. & expan. if NC not intensified & cost over life of struct. does not exceed 50% of market value based on accum. of work.	Allow struct. repairs, alter. & expan. if NC not intensified & cost over life of struct. does not exceed 50% of market value based on accum. of work.	Allow struct. repairs, alter. & expan. if NC not intensified & cost over life of struct. does not exceed 50% of market value based on accum. of work.	If NCS destroyed or damaged >50% by fire, flood or act of God, it shall not be replaced or rebuilt unless in compliance.
Monroe	Lawful NCS may continue; however, it shall not be extended, enlarged, reconstructed, moved or struct. altered exc. to comply w/ ordinance provisions.	Lawful NCS may continue; however, it shall not be extended, enlarged, reconstructed, moved or struct. altered exc. to comply w/ ordinance provisions.	Lawful NCS may continue; however, it shall not be extended, enlarged, reconstructed, moved or struct. altered exc. to comply w/ ordinance provisions.	Lawful NCS may continue; however, it shall not be extended, enlarged, reconstructed, moved or struct. altered exc. to comply w/ ordinance provisions.	Lawful NCS may continue; however, it shall not be extended, enlarged, reconstructed, moved or struct. altered exc. to comply w/ ordinance provisions.

<i>County</i>	<i>Maintenance</i>	<i>Horizontal Additions</i>	<i>Vertical Additions</i>	<i>Basements</i>	<i>Demolition</i>
Oconto	Rout. mainten. of legal NCS cond. incl. no struct. repair over life of bldg. to exceed 50% of its current est. fair market value, unless it conforms.	No struct. alter., struct. add. or struct. repair to a legal NCS shall exceed 50% of its current est. fair market value, unless it conforms w/ ordin.	No struct. alter., struct. add. or struct. repair to a legal NCS shall exceed 50% of its current est. fair market value, unless it conforms w/ ordin.	No struct. alter., struct. add. or struct. repair to a legal NCS shall exceed 50% of its current est. fair market value, unless it conforms w/ ordin.	Not addressed in county's shoreland zoning ordinance.
Oneida	NCPS w/i 40' of OHWM (1)bldg. not altered horiz./vert. (2)structural improv. limited to 25% over life of bldg., (3)req. mitigation.	NCPS 40'-75' from OHWM, (1)does not exceed bldg. s.f. calc., (2)landward side only, (3)expan. limited to 50% of current s.f., (5)req. mitigation.	NCPS 40'-75' from OHWM (1)cannot exceed max. bldg. height limit, (2)req. mitigation.	Not permitted if NCPS w/i 40' of OHWM.	NCS destroyed or damaged by owner or general deterioration may not be rebuilt/repared except in conformance w/ ordinances.
Outagamie	Routine maintenance may continue w/ conditions, incl. no repair shall exceed 50% of its equalized assessed value, unless changed to conforming.	NC use shall not be expanded or enlarged & no struct. alter., addition or repair shall exceed 50% of equalized assessed value, unless made conforming.	NC use shall not be expanded or enlarged & no struct. alter., addition or repair shall exceed 50% of equalized assessed value, unless made conforming.	NC use shall not be expanded or enlarged & no struct. alter., addition or repair shall exceed 50% of equalized assessed value, unless made conforming.	Not addressed in county's shoreland zoning ordinance.
Ozaukee	Ordinary maintenance is allowed & incl. painting, paneling, replacing doors, windows, etc.	Struct. alter. req. a variance w/ limitations incl. no struct. alter. shall exceed 50% of current assessed value, per project, unless made conforming.	Struct. alter. req. a variance w/ limitations incl. no struct. alter. shall exceed 50% of current assessed value, per project, unless made conforming.	Struct. alter. req. a variance w/ limitations incl. no struct. alter. shall exceed 50% of current assessed value, per project, unless made conforming.	If NCS is destroyed or damaged & restoration exceeds 50% of present equalized value, it cannot be rebuilt unless it meets requirements of ordinance.
Pepin	Routine maintenance permitted. No repair over life of bldg. shall exceed 50% of its current estimated market value, unless changed to conforming.	No addition, alteration or repair over life of bldg. shall exceed 50% of its current estimated market value, unless changed to conforming.	No addition, alteration or repair over life of bldg. shall exceed 50% of its current estimated market value, unless changed to conforming.	No addition, alteration or repair over life of bldg. shall exceed 50% of its current estimated market value, unless changed to conforming.	Not addressed in county's shoreland zoning ordinance.
Pierce	Alterations and repairs need not comply w/ setback provisions, if they do not increase floor area or change building footprint.	Additions or extensions of NCS are permitted if they comply with all provisions of ordinance.	Additions or extensions of NCS are permitted if they comply with all provisions of ordinance.	Additions or extensions of NCS are permitted if they comply with all provisions of ordinance.	Restore NCS damaged by fire, flood, etc. if comply w/ ord. prov., OR if repair of NCS occurs w/i bldg. footprint & floor area not increased.
Polk	Mainten. conditional incl. no struct. repair to existing NCS shall exceed 50% of equalized assessed value over life of struct. unless made conforming.	No modif., alter., addit. or struct. repair to existing NCS shall exceed 50% of equalized assessed value over life of struct. unless made conforming.	No modif., alter., addit. or struct. repair to existing NCS shall exceed 50% of equalized assessed value over life of struct. unless made conforming.	No modif., alter., addit. or struct. repair to existing NCS shall exceed 50% of equalized assessed value over life of struct. unless made conforming.	Not addressed in county's shoreland zoning ordinance.

<i>County</i>	<i>Maintenance</i>	<i>Horizontal Additions</i>	<i>Vertical Additions</i>	<i>Basements</i>	<i>Demolition</i>
Portage	Maintenance permitted. No struct. repair shall exceed 50% of its equalized assessed value over life of bldg., unless changed to conforming.	No modification, alter., addition or struct. repair shall exceed 50% of its equalized assessed value over life of bldg., unless changed to conforming.	No modification, alter., addition or struct. repair shall exceed 50% of its equalized assessed value over life of bldg., unless changed to conforming.	No modification, alter., addition or struct. repair shall exceed 50% of its equalized assessed value over life of bldg., unless changed to conforming.	Not addressed in county's shoreland zoning ordinance.
Price	Routine maintenance continue as long as use not discontinued for 12 months, else must conform.	NCPS w/i 50' OHWM, internal improvements only. NCPS >50' from OHWM, expand up to 50% of enclosed area or 1500 s.f., which ever is less. Req. mitig.	NCPS w/i 50' OHWM, no new stories. NCPS >50' from OHWM, expand 50% of enclosed area or 1500 s.f., which ever is less. Expand landward. Req. mitig.	NCPS w/i 50' OHWM, no new basements. NCPS >50' from OHWM, expand 50% enclosed area or 1500 s.f., which ever is less. Expand landward. Req. mitig.	NCS destroyed or damaged by deliberate act of owner or due to general deterioration, may not be reconstructed or repaired, except in compliance.
Racine	Repairs and improvements of a maintenance nature are allowed.	Alter., additions & expan. that do not increase exterior dimensional NC allowed if they do not exceed 50% of current est. equalized assessed value.	Alter., additions & expan. that do not increase exterior dimensional NC allowed if they do not exceed 50% of current est. equalized assessed value.	Alter., additions & expan. that do not increase exterior dimensional NC allowed if they do not exceed 50% of current est. equalized assessed value.	If damaged by fire, explosion, flood, public enemy or other calamity by >50% of its current equalized assessed value, must comply w/ use provisions.
Richland	Routine maintenance conditional, incl. no repair over life of struct. shall exceed 50% of current est. fair market value, unless made conforming.	No struct. alteration, addition, or repair over life of NCS shall exceed 50% of current est. fair market value, unless made conforming.	No struct. alteration, addition, or repair over life of NCS shall exceed 50% of current est. fair market value, unless made conforming.	No struct. alteration, addition, or repair over life of NCS shall exceed 50% of current est. fair market value, unless made conforming.	Not addressed in county's shoreland zoning ordinance.
Rock	Routine maintenance is conditional incl. no structural repair to any NCS over life of struct. shall exceed 50% of its current est. fair market value.	No struct. alteration, addition or repair to NCS over life of struct. shall exceed 50% of its current est. fair market value, unless made conforming.	No struct. alteration, addition or repair to NCS over life of struct. shall exceed 50% of its current est. fair market value, unless made conforming.	No struct. alteration, addition or repair to NCS over life of struct. shall exceed 50% of its current est. fair market value, unless made conforming.	Not addressed in county's shoreland zoning ordinance.
Rusk	Routine maintenance allowed if repair over life of bldg. not >50% of current real estate tax equalized fair market value of particular improvement.	Additions or alteration cannot >50% over life of bldg. of current real estate tax equalized fair market value of particular improvement.	Additions or alteration cannot >50% over life of bldg. of current real estate tax equalized fair market value of particular improvement.	Additions or alteration cannot >50% over life of bldg. of current real estate tax equalized fair market value of particular improvement.	Not addressed in county's shoreland zoning ordinance.
St. Croix	No repair to any NCS over life of struct. shall exceed 50% of its market value at time of NC use, unless changed to conforming.	No alteration, addition or repair to a NCS over life of struct. to exceed 50% of its market value at time of NC use, unless changed to conforming.	No alteration, addition or repair to a NCS over life of struct. to exceed 50% of its market value at time of NC use, unless changed to conforming.	No alteration, addition or repair to a NCS over life of struct. to exceed 50% of its market value at time of NC use, unless changed to conforming.	Any structure containing a NC use damaged or destroyed by any means = or >50% of its market value, reconstruct in conformity w/ provisions.

<b>County</b>	<b>Maintenance</b>	<b>Horizontal Additions</b>	<b>Vertical Additions</b>	<b>Basements</b>	<b>Demolition</b>
Sauk	Routine maintenance conditionally, incl. any repair to NCS shall not increase dimensional NC of struct., exc. as provided.	OHWL-25'=no expansion. 26'-50' from OHWM=max. 750 s.f. or 15% total increase. 51'-74' from OHWM=max. 1650 s.f. or 25% total increase.	OHWL-25'=no expansion. 26'-50' from OHWM=max. 750 s.f. or 15% total increase. 51'-74' from OHWM=max. 1650 s.f. or 25% total increase.	OHWL-25'=no expansion. 26'-50' from OHWM=max. 750 s.f. or 15% total increase. 51'-74' from OHWM=max. 1650 s.f. or 25% total increase.	If destroyed by fire, wind or other disaster >50% of current fair market value, or voluntarily moved or torn down, can't rebuild unless it conforms.
Sawyer	Routine maintenance of NCS may continue as long as NC use is not discontinued for 12 months or destroyed.	No struct. alteration, addition or repair to any bldg. over life of bldg. may exceed 50% of current estimated value unless brought into compliance.	No struct. alteration, addition or repair to any bldg. over life of bldg. may exceed 50% of current estimated value unless brought into compliance.	No struct. alteration, addition or repair to any bldg. over life of bldg. may exceed 50% of current estimated value unless brought into compliance.	If NCS destroyed by fire or wind, etc. any future structure shall conform to ordinance.
Shawano	Routine maintenance allowed if repair over life of bldg. not >50% of current estimated fair market value, unless changed to conforming.	No. struct. alteration, addition or repair over life of bldg. shall exceed 50% of its current fair market value, unless changed to conforming.	No. struct. alteration, addition or repair over life of bldg. shall exceed 50% of its current fair market value, unless changed to conforming.	No. struct. alteration, addition or repair over life of bldg. shall exceed 50% of its current fair market value, unless changed to conforming.	Not addressed in county's shoreland zoning ordinance.
Sheboygan	Ordinary maintenance work is not a struct. alteration or repair & incl. painting, paneling, & replacing doors, windows, & other non-structural items.	OHWL-37.5'=prohibited. 37.5'-75'=req. CUP & no further encroachment. Remove NCS from OHWM-37.5'. Max. 20% lot coverage. Cost max. 50% PEAV.	OHWL-37.5'=prohibited. 37.5'-75'=req. CUP & no further encroachment. Remove NCS from OHWM-37.5'. Max. 20% lot coverage. Cost max. 50% PEAV.	OHWL-37.5'=prohibited. 37.5'-75'=req. CUP & no further encroachment. Remove NCS from OHWM-37.5'. Max. 20% lot coverage. Cost max. 50% PEAV.	If by deliberate act of owner (incl. removal of NCS portion) rebuild in compliance. If destroyed by wind, fire, etc. rebuild w/ mitigation.
Taylor	Routine maintenance continue if repairs over life of struct. do not >50% of current est. fair market value. Repair/alteration \$500+ req. permit.	No struct. alteration, addition or repair over life of bldg. to exceed 50% of its current est. fair market value, unless made compliant.	No struct. alteration, addition or repair over life of bldg. to exceed 50% of its current est. fair market value, unless made compliant.	No struct. alteration, addition or repair over life of bldg. to exceed 50% of its current est. fair market value, unless made compliant.	Repairs/alterations over \$500 req. a zoning permit.
Trempealeau	Routine maintenance conditional incl. no repair to NCS over its life shall exceed 50% of its current est. fair market value, unless it conforms.	No struct. alteration, addition or repair to NCS over its life shall exceed 50% of current est. fair market value, unless it conforms to ordinance.	No struct. alteration, addition or repair to NCS over its life shall exceed 50% of current est. fair market value, unless it conforms to ordinance.	No struct. alteration, addition or repair to NCS over its life shall exceed 50% of current est. fair market value, unless it conforms to ordinance.	Not addressed in county's shoreland zoning ordinance.
Vernon	Routine maintenance continue if use not discontinued 12 months or repairs over life of struct. do not exceed 50% of current est. fair market value.	No struct. alteration, addition or repair over life of bldg. to exceed 50% of its current est. fair market value, unless made compliant.	No struct. alteration, addition or repair over life of bldg. to exceed 50% of its current est. fair market value, unless made compliant.	No struct. alteration, addition or repair over life of bldg. to exceed 50% of its current est. fair market value, unless made compliant.	Not addressed in county's shoreland zoning ordinance.

<b>County</b>	<b>Maintenance</b>	<b>Horizontal Additions</b>	<b>Vertical Additions</b>	<b>Basements</b>	<b>Demolition</b>
Vilas	Different classes of maintenance permitted based on location of existing bldg. & proposed addition w/ respect to OHWM.	NCPS 600+ s.f. (1)expand landward at width of existing bldg., exc. beyond setback. NCPS <600 s.f. (1)expand landward (2)50% max. incr. in footprint.	No new stories or vertical expan. except dormer windows.	No new basements >6' deep for NCPS <50' from OHWM. Rearward expan. of existing basements must be at same depth for existing bldg.	NCS cannot be rebuilt w/i setback if voluntarily demolished & (1)repair >50% value (2)replacing >50% of bldg., or (3)as a result not used for 1 year.
Walworth	Use of substandard structures (legally constructed, but not meeting setback, yard, height, etc. req.) may be continued although struct. does not conform to ordinance.	Additions & enlargements to substandard structures (do not meet setback, yard, height, etc. req.) are permitted and shall conform to req. yard, height, parking, loading & access provis. of ordinance.	Additions & enlargements to substandard structures (do not meet setback, yard, height, etc. req.) are permitted and shall conform to req. yard, height, parking, loading & access provis. of ordinance.	Additions & enlargements to substandard structures (do not meet setback, yard, height, etc. req.) are permitted and shall conform to req. yard, height, parking, loading & access provis. of ordinance.	If substandard struct. is destroyed by fire, flood, etc. or removed/razed, may reconstruct to original design (bldg. env.) & location (foot print).
Washburn	NCPS permitted ordinary maintenance & repair. Internal improvements only if at least 750 s.f. enclosed, habitable living space & w/i bldg. envelope.	NCPS >50' from OHWM & 750+ s.f. enclosed living space. Max. total 1500 s.f. Additions on landward side. Max. 25% struct. members modified/replaced.	NCPS >75' from OHWM & 750 s.f. enclosed living space. Max. 25% struct. members modified-replaced. Additions no closer to OHWM than existing struct.	NCPS>50' from OHWM & 750+ s.f. - extension of existing basements & second stories only. NCPS>75' from OHWM & 750+ s.f. - new basements w/ conditions.	NCPS damage due to intentional act of owner may only be replaced in compliance.
Washington	Routine maintenance continue if use not discontinued 12 months or repairs over life of struct. do not exceed 50% of current est. fair market value.	No struct. alter., addition or repair over life of bldg. to exceed 50% of its current est. fair market value by local assessor, unless made compliant.	No struct. alter., addition or repair over life of bldg. to exceed 50% of its current est. fair market value by local assessor, unless made compliant.	No struct. alter., addition or repair over life of bldg. to exceed 50% of its current est. fair market value by local assessor, unless made compliant.	Not addressed in county's shoreland zoning ordinance.
Waukesha	Existing lawful use may continue.	No struct. shall be modernized, expanded or enlarged exc. in conformity w/ regulations if total repairs exceed 50% of current fair market value.	No struct. shall be modernized, expanded or enlarged exc. in conformity w/ regulations if total repairs exceed 50% of current fair market value.	No struct. shall be modernized, expanded or enlarged exc. in conformity w/ regulations if total repairs exceed 50% of current fair market value.	If struct. is damaged beyond 50% of current fair market value, it shall not be restored exc. in conformity of regulations.
Waupaca	Ordinary maintenance & repair allowed on NCPS.	NCPS 750+ s.f. (50'-req. setback) expand to greater of 1500 s.f. or 15% of lot area w/i 200' of OHWM. Expand landward as possible & req. mitigation.	NCPS 750+ s.f. (50'-req. setback) additional story no larger than footprint of original bldg. & max. 28' tall. Req. mitigation.	No new basements for existing structures, exc. new basements may be permitted for expansion landward of existing bldg. Req. mitigation.	Repairs can't >50% of current est. fair market value, unless brought into compliance. Bldg. destroyed by owner may not be rebuilt unless compliant.
Waushara	Regulations are not to be construed to prevent necessary maintenance or repairs of bldgs.	No NCS during its total lifetime shall be enlarged or expanded >50% of its equalized assess value over the life of struct., unless made conforming.	No NCS during its total lifetime shall be enlarged or expanded >50% of its equalized assess value over the life of struct., unless made conforming.	All struct. shall have lowest inhabitable floor constructed not less than 2' above OHWM or regional flood elevation, whichever is higher.	If damaged >50% of its equalized assessed value, it shall not be restored exc. in conformity w/ regulations of zone it is in.

<i><b>County</b></i>	<i><b>Maintenance</b></i>	<i><b>Horizontal Additions</b></i>	<i><b>Vertical Additions</b></i>	<i><b>Basements</b></i>	<i><b>Demolition</b></i>
Winnebago	Ordinary maintenance allowed incl. painting, paneling & replacing existing private sewage or water supply systems or connections to public utilities.	No modification or addition to NCS if over life of struct. would exceed 50% of present equalized assessed value, unless made conforming.	No modification or addition to NCS if over life of struct. would exceed 50% of present equalized assessed value, unless made conforming.	No modification or addition to NCS if over life of struct. would exceed 50% of present equalized assessed value, unless made conforming.	If NCS is destroyed or damaged with restoration exceeding 50% of present equalized assessed value, it can't be rebuilt, unless in conformity.
Wood	No repair, as long as use cont., shall exceed 50% of assessed value except if granted variance or changed to conforming.	No alteration, addition or repair, as long as use cont., shall exceed 50% of assessed value except if granted variance or changed to conforming.	No alteration, addition or repair, as long as use cont., shall exceed 50% of assessed value except if granted variance or changed to conforming.	No alteration, addition or repair, as long as use cont., shall exceed 50% of assessed value except if granted variance or changed to conforming.	Not addressed in county's shoreland zoning ordinance.



# ***Nonconforming Structure Ordinance Language***

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## ***BURNETT COUNTY***

### **4.4 (9) Shoreline Setback Nonconformities**

- (a) Nonconforming principal structures less than 40 feet from the ordinary high water mark are permitted ordinary maintenance and repair. Such structures may be improved internally provided:
  - (1) No more than 25% of the structural members of the existing external walls and roof are modified or replaced (allows matching of existing roof lines);
  - (2) Internal improvement is confined to the building envelope (i.e. no new basements, additional stories, lateral expansion or accessory construction outside the perimeter of existing enclosed dwelling space are permitted but replacement of windows, doors, roofing and siding and upgrading of the insulation of a structure are permitted); and
  - (3) Existing nonconforming accessory structures are removed from the property; and
  - (4) The property owner implements a plan approved by the County Land Conservationist which restores the shoreline cover buffer zone as per Section 4.4(2).
- (b) A nonconforming principal structure located between 40 and 75' from the ordinary high water mark which includes at least 500 square feet (footprint) of enclosed area may be expanded providing:
  - (1) The total area of the existing structure and the proposed addition does not exceed 1,500 square feet of enclosed living area not to include basements.
  - (2) All expansion is no closer to the water than the landward façade of the existing principal structure (placement of standard or walkout basements under existing structures is prohibited); except for a one time maximum of 144 square foot expansion (including open patios and decks) which is no closer to ordinary high water mark than the closest setback of the structure provided further that such addition does not extend toward the ordinary high water mark beyond the shoreline façade, of existing structure;

- (3) Existing nonconforming accessory structures are removed from the property; and
  - (4) The property owner implements a plan approved by the County Land Conservationist which restores the shoreline cover buffer zone as per Section 4.4(2).
- (c) Expansion of nonconforming principal structures between 75' and the required setback from the ordinary high water mark is allowed provided expansion is at least 75' from the ordinary high water mark, i.e. additions will be allowed to structures that are at least 75 feet back from a Class 3 lake/river.

## ***CHIPPEWA COUNTY***

### **16.13 NONCONFORMING USES AND STRUCTURES**

(1) **POLICY ON LEGAL NONCONFORMING USES AND STRUCTURES.**  
 Unlimited future expansion of nonconforming uses and structures can jeopardize the long-term objectives of our community planning and zoning efforts. Allowing existing nonconforming uses and structures to greatly expand or be reconstructed after disasters can mean further encroachment toward the water, further destruction of natural shoreline vegetation and its buffering and sediment reduction ability, and increased runoff of sediment and nutrients to the water. These are in conflict with protection of water quality, fish and aquatic life that are among the purposes of shoreland zoning. Our policy is to minimize the adverse impacts of nonconforming uses and structures by only allowing their limited expansion.

(2) The lawful use of a building, structure or property which existed at the time of this ordinance, or an applicable amendment to this ordinance, took effect and which is not in conformity with the provisions of this ordinance, including the routine maintenance of such a building or structure, may be continued, subject to the condition in Sections 16.13(3) and 16.13(4) below.

#### **(3) CONDITIONS FOR CONTINUANCE OF LEGAL NONCONFORMING USE AND STRUCTURES.**

(a) **LIMITED EXPANSION ALLOWED.** Structural alterations, additions or structural repairs to any nonconforming structure, over the life of the structure, may be made subject to all of the following conditions:

- (1) A one-time addition shall not exceed a total of 50% of the floor area of the original nonconforming principal structure. In computing the original floor area, the existing floor area covered by attached decks or garages shall not be used. The total habitable living area of a principal nonconforming structure, within 75 feet of the water, shall not exceed 1,800 square feet.

(2) Additions can be at the same setback as the original nonconforming structure, but additions to the sides of a nonconforming structure shall not exceed 50% of the width of the original nonconforming structure, except that no lateral expansions are allowed within 50 feet of the ordinary highwater mark. The width is a measurement parallel to the shoreline.

(3) No addition to any part of a nonconforming structure can exceed the height of that part of the original structure that is nonconforming. (Example: A deck which is closer to a waterway than the main structure could not be converted to a sunroom because of the increase in height.)

(4) The property must comply with shoreline cutting regulations found in Section 16.10. If the property is not in compliance with Section 16.10, a restoration plan must be submitted and restorations must be completed within one year of permit issuance.

## ***LANGLADE COUNTY***

### **17.12 (3) (c) Shoreline Setback Nonconformities**

1. Nonconforming accessory structures.

Except as provided in Section 17.12 (3) (d), all nonconforming accessory structures are limited to ordinary maintenance and repair and may not be improved or expanded.

2. Nonconforming principal structures.

a. Nonconforming principal structures **less than 50 feet from the ordinary highwater mark** are permitted ordinary maintenance and repair. Such structures may be improved internally provided:

- (1) the existing structure includes at least 600 square feet of enclosed, dwelling space;
- (2) no more than 25% of the structural members of the existing external walls and roof are modified;
- (3) internal improvement is confined to the building envelope. Internal improvement does not include the following construction:
  - \* New basements
  - \* Additional stories and
  - \* Lateral expansion or accessory construction outside of the perimeter of the existing enclosed dwelling space.

Internal improvements may include:

- \* Replacement of windows, doors, roofing and siding;
- \* Upgrading of insulation;
- \* Repair but not replacement of an existing foundation including raising an existing basement to no more than nine feet in total height;
- \* Replacement of roof trusses with a maximum 8:12 pitch, and
- \* Additions of 100 square or less on the landward side of the structure.

(4) the mitigation requirements of Section 17.12 (3) (c) 3 are implemented.

(b) Nonconforming principal structures 50-75 feet from the ordinary highwater mark are permitted ordinary maintenance and repair. Such structures may also be improved and expanded provided:

- (1) the existing structure includes at least 600 square feet of enclosed, dwelling space;
- (2) no more than 25% of the structural members of the existing external walls and roof are modified or;
- (3) expansion is limited to a maximum of 1,500 square feet of enclosed dwelling space (total of existing and proposed construction);
- (4) any addition is located on the landward side of the structure or in compliance with the required setback; if it is not feasible because of limiting site conditions to place an addition on the landward side of an existing structure or in compliance with the required a setback, an addition may be located no closer to the water than the existing structure provided it is set back as far as practicable;
- (5) new basements and additional stories may not be constructed (extension of an existing basement or second story is permitted);
- (6) limitations on lot cover and land disturbing activities in Section 17.30 (8) are observed; and
- (7) the mitigation requirements of Section 17.12 (3) (c) 3 are implemented.

c. Principal buildings and structures 75 feet or more from the ordinary highwater mark and which do not comply with Waterway Class

Development Standards are permitted ordinary maintenance and repair. Such buildings and structures may be improved and expanded provided:

- 1) The existing structure includes at least 600 square feet of enclosed dwelling space;
  - 2) No more than 25% of the structural members of the existing external walls and roofs are modified;
  - 3) Expansion is limited to a maximum of 2,000 square feet of enclosed dwelling space (total of existing and proposed construction);
  - 4) Any addition is located on the landward side of the structure or in compliance with the required setback; if it is not feasible because of limiting site conditions to place an addition on the landward side of an existing structure or in compliance with the required setback, an addition may be located no closer to the water than the existing structure provided it is set back as far as practicable;
  - 5) New basements and additional stories may not be constructed (extension of an existing basement or second story is permitted);
  - 6) Limitations on lot coverage by buildings in Section 17.30 (8) (e) 1 are observed; and
  - 7) The mitigation requirements of Section 17.12 (3) (c) 3 are implemented.
- d. Nonconforming structures which are located in more than one setback zone shall comply with the standards of the more restrictive zone.

## ***LINCOLN COUNTY***

### **17.22 (3) EXPANSION OF NONCONFORMING STRUCTURES.**

- (a) Principle structures that are nonconforming, due to setback from the ordinary high water mark, may be expanded subject to the following provisions: (1) The existing structure currently maintains a minimum of a 40 foot setback. (2) The proposed expansion will be to the rearward side of the existing structure or begin at 75 feet from the OHWM. (3) The total expansion will be limited to the creation of no more than a 1500 square foot total footprint for the structure. Any other setback or expansion plan must be permitted by the Board of Adjustment according to § 17.48(1)(b) of this chapter.

## ***ONEIDA COUNTY***

### **9.90 D. Nonconforming Structures**

1. Applicability. While recognizing the purpose section 9.12 of the Shoreland Zoning Ordinance, it is the intent of this section to balance the public objectives of this Ordinance with the interests of the owners of existing nonconforming buildings and other structures.
2. Buildings and other structures or portions thereof that are deemed nonconforming and that were lawfully permitted under previous ordinances or otherwise lawfully existed and which exist at the time of this ordinance takes effect may be continued subject to the limitations of this Ordinance.

Property owners seeking to expand any buildings or other structures are encouraged to relocate the same beyond the 75' setback from the OHWM.

Existing buildings and structures or portions thereof unlawfully constructed or altered shall be accorded no benefit under this section.

Buildings and other structures that are located within 75' of the OHWM and that are located in more than one setback zone shall be subject to the more restrictive zone in which it lies. If any portion of a building or other structure is located within 40' of the OHWM, the entire buildings or other structure shall be subject to the provisions of Section 9.90 (D.) (3) and (4).

Notwithstanding any other provision of this section, any principal building located closer than 75' from the OHWM may be expanded in order to provide accessibility to the structure for people with permanent disabilities. However, a CUP is required and such expansion is permitted to continue only for as long as the building is in use by the person(s) with such disabilities.

A permit is required for any improvement or construction greater than \$5000. The cost of such improvements or construction are cumulative, and can occur over one or more stages, over the life of the building.

\* \* \*

When a building or other structure is nonconforming with respect to either the highway setback of Sec. 9.50, or OHWM setback

requirements of Section 9.51 or the sideyard setbacks of Section 9.60, maintenance, repair or improvements, if any, are permitted provided they are in strict compliance with the requirements of this ordinance.

\* \* \*

4. Nonconforming Principal Buildings. Nonconforming principal buildings may be continued subject to the following conditions:

- A. Principal Buildings Located Within 40 feet of the OHWM.

**Maintenance and Repairs.** A principal building or portion thereof located within 40' of the OHWM is allowed ordinary maintenance, repair and nonstructural improvements as defined in this Ordinance provided it does not alter the exterior building envelope horizontally or vertically.

**Structural Improvements.** Modification or replacement of no more than 25% of the structural members of the existing external walls, roof and interior structural members over the life of the building is permitted as follows.

Replacement or alteration of the exterior walls cannot exceed 25% of the total linear perimeter of the exterior walls per floor level. (e.g. a 24' x 36' building has a perimeter of 120', therefore an alteration or replacement of no more than 30' of the exterior wall would be permitted).

Replacement or alteration of a roof system cannot exceed 25% of the horizontal square footage of the roof systems perimeter. (e.g. a 24' x 36' building with a pitched roof has 864 horizontal square feet of roof area, therefore an alteration or replacement of no more than 216 square feet of the roof system would be permitted. The same 24' x 36' building with a flat roof would also equal 684 horizontal square feet).

Replacement or alteration of interior structural walls or members cannot exceed 25% of the total linear distance of the interior load bearing walls or 25% of the interior load bearing members per floor level.

Mitigation as set forth in Section 9.512 is required.

The owner shall be required to establish what percentage of the structural members of the existing external walls, roof and interior

structural members have already been replaced or altered for properties that have used all or a part of the 50% CEAV under section 9.90 of the previous Ordinance dating back to August 16, 1984. That percentage of the 50% CEAV utilized under the previous Ordinance shall then be subtracted from the balance of the 25% limit defined here on a pro rata basis.

Unlimited internal nonstructural improvements are permitted provided the property owner proves to the Department that the building is in structurally sound condition.

Construction of or vertical expansion of a basement or footings/foundation is not permitted.

**B. Principal Buildings Located Between 40 and 75 feet from OHWM.**

**1. Maintenance, Repairs and Internal Improvements.**

The owner of a principal building or portion thereof located between 40 – 75' of the OHWM is allowed ordinary maintenance and repair.

Unlimited internal improvements are allowed.

**2. Expansion.**

- a. On properties where buildings and other structures exceed the building square footage calculation in Sec. 9.90 (D.) (4.) (B.) (2.) (c.) below or exceeds the limits set forth in Sec. 9.44 (E.) (1.), (3.) and (4.), horizontal expansion is not permitted.

Converting attached garages into living quarters or adding another vertical level not to exceed the maximum height limit is permitted.

Mitigation as set forth in section 9.512 is required.

- b. On properties where buildings and structures do not exceed the building square footage calculation in Sec. 9.90 (D.) (4.) (B.) (2.) (c.) below and does not exceed the limits in Sec. 9.44 (E.) (1.) (3.) and (4.) are permitted horizontal expansion subject to the following:

Horizontal expansion of a principal building shall be limited to the landward side of the building and cannot exceed the lesser of the width of the current structure or 60% of the lot's riparian



frontage width. For the purpose of this subsection width is the side of the structure that most nearly parallels the OHWM.

Such expansion cannot exceed the limits in Sec. 9.90 (D.) (4.) (B.) (2.) (c.) below.

Cannot exceed the limits in section 9.44 (E.) (1.), (2.), (3.) or (4.)

Cannot increase the size of the existing principal building by more than 50% of the current square footage.

Mitigation as set forth in Section 9.512 is required.

Square footage calculation: The maximum combined square footage of all buildings and other structures as calculated using Sec. 9.44 (E.) (1.) (a.) within 75' of the OHWM shall not exceed 15% of that portion of the lot's area located within 75' of the OHWM. The 15% can be increased 0.5% for each additional 1' the building and other structures are setback from the 40' OHWM.

## ***PRICE COUNTY***

9.15 No structural alteration, addition or repair to any building or structure with a nonconforming use or any nonconforming building or structure, over the life of the building or structure, shall exceed 50% of its enclosed area at the time it became nonconforming, unless it is permanently changed to conform to the requirements of this ordinance.

9.16 Shoreline Setback Nonconformities.

- a. A principle structure which is nonconforming as to shoreline setback and is located within 50 feet of the ordinary highwater mark may be improved internally without limitation, but may not be expanded. Such improvement shall be confined to the enclosed portions of the building envelope which existed at the time the structure became nonconforming and shall not include new basements or additional stories. Replacement of roofing, siding, windows and upgrading insulation are permitted.
- b. A principle structure which is nonconforming as to shoreline setback and is located more than 50 feet from the ordinary highwater mark may be expanded up to 50% of the enclosed area which existed at the time the structure became nonconforming, or 1500 square feet, whichever is less. Such expansion shall be located on the landward side of the structure wherever practicable. Section

4.5 regarding maximum impervious surface area shall apply to such expansion.

- c. A plan to mitigate for the adverse effects of nonconformity shall be implemented concurrent with improvement or expansion of such structures. The plan shall be approved by the zoning administrator prior to issuance of a zoning permit. It shall include a compliance schedule and the following considerations:

## ***SAUK COUNTY***

### **8.08 NON-CONFORMING USES AND STRUCTURES**

- (1) The lawful use of a structure or property which existed at the time this ordinance, or an applicable amendment to this ordinance, took effect which is not in conformity with the provisions of this ordinance, including the routine maintenance of such structure may be continued, subject to the following conditions:

\* \* \*

- (h) The owner of a nonconforming use or nonconforming structure has the burden of proving that the use or structure was in existence at the time the ordinance took effect.
- (i) Non-conforming houses, cabins or homes shall be limited to the amount of structural additions based on the distance the structure is from the ordinary high water mark of the water. Said structures located within 25 feet of the ordinary high water mark shall not be allowed to expand the structure. Structures located between 26 feet and 50 feet of the ordinary high water mark shall not expand the existing structure beyond 750 square feet of total living space. Structures located between 51 feet and 74 feet of the ordinary high water mark shall not expand the existing structure beyond 1650 square feet of total living space. Living space shall include all enclosed areas, but excludes all open decks, porches, garages and steps.
- (j) Non-conforming structures not included in (i) shall also be limited to the amount of structural additions based on the distance the structure is from the ordinary high water mark of the water. Structures located within 25 feet of the ordinary high water mark shall not be allowed to expand the structure. Structures located between 26 feet and 50 feet of the ordinary high water mark shall be limited to fifteen percent total increase in size over the life of said structure. Structures located between 51 feet and 74 feet of the ordinary high water mark shall be limited to a twenty-five percent total increase in size over the life of said structure.

## ***SHEBOYGAN COUNTY***

### **72.18(a)(1)B. Reduced Setbacks**

“Regulated setback structures” include all structures located less than seventy-five (75) feet from the ordinary high water mark of any inland navigable waters other than those exempted from the setback requirement of Section 72.18(a)(1)A of this Ordinance. Regulated setback structures shall be considered nonconforming. Such structures may be expanded or relocated within the regulated setback only if a Shoreland-Floodplain Conditional Use Zoning Permit is issued. In addition to the site-specific conditions imposed by the Resources Committee pursuant to Section 72.39 of this Ordinance, prerequisites for the issuance of a Conditional Use Permit shall include:

1. The structure must either have been erected prior to October 27, 1970, or have been erected pursuant to a permit issued under this ordinance;
2. All other provisions of this Ordinance not in conflict with this Section shall apply to any such expansion or relocation, including by way of illustration but not limitation Section 72.23;
3. No expansion closer to the ordinary high water than the existing structure may be permitted;
4. All regulated setback structures or portions thereof less than thirty seven and one-half (37½) feet from the ordinary high water mark shall be removed.

Any setback less than that of the existing structure shall only be permitted upon the granting of a variance by the Board of Adjustments, in accordance with Section 72.38 of this ordinance.

## ***VILAS COUNTY***

### **ARTICLE VI: REGULATION OF EXISTING STRUCTURES LOCATED CLOSER THAN 75’ FROM THE OHWM**

#### **6.1 Applicability.**

This article applies to existing structures or portions of existing structures located less than seventy-five feet (75’) from the ordinary high water mark and supercedes any contrary provision in the Vilas County General Zoning Ordinance. Lawful existing uses of a building or structure which existed at the time of this ordinance, or applicable amendments to this ordinance took effect may be continued subject to the conditions in Article VIII and IX of the Vilas County

General Zoning Ordinance. This article does not apply to existing structures authorized under Article X and NR 115.05.

## **6.2 Intent.**

It is the intent of this article to balance the public objectives of this ordinance with the interests of owners of existing structures located closer than seventy-five feet from the ordinary high water mark by:

- A.** Treating smaller, more readily moveable structures more restrictively than larger, more permanent principal structures.
- B.** Allowing maintenance, repair, and internal improvements of existing structures essential to the continued reasonable use of a property.
- C.** Treating structures located closer to navigable waterways within seventy-five of the ordinary high water mark more restrictively than structures which are more nearly in compliance with the seventy-five foot minimum setback;
- D.** Allowing for limited expansion of a principal structure provided the adverse effects of such improvement or expansion are mitigated;
- E.** Limiting the extent of expansion of principal structures vertically and to the side to minimize adverse water quality, shoreland buffer zone, aesthetic and other impacts from such expansion, and to provide incentive for property owners seeking major expansion to consider relocation of the principal structure beyond the seventy-five feet from the ordinary high water mark.
- F.** Encouraging removal of non-principal structures from the 75 ft setback area to promote better buffer areas and decrease runoff to the waterbody.

## **6.3 Maintenance, Repairs and Internal Improvements.**

- A.** Maintenance, repair and internal improvements to existing structures or portions of existing structures located closer than seventy-five feet (75') from the ordinary high water mark are permitted provided the exterior building envelope is not altered beyond the thickness of new materials.
- B.** Such maintenance, repairs and internal improvements include, but are not limited to: replacement or installation of windows, skylights, doors, vents, siding, insulation, shutters, gutters, flooring, shingles and other roofing, replacing or repairing walls or floors of a foundation, or internal improvements within the building envelope.

- C. Maintenance, repairs and internal improvements do not include external alterations or additions subject to Section 6.4 or replacement of existing structures subject to Section 6.5.
- D. An increase in roof pitch is permitted provided the living space is not increased and the height of the structure does not exceed other building height limitations.

#### **6.4 External Alterations and Additions.**

##### **A. Existing Principal Structures.**

###### **1. General Restrictions.**

Alterations or additions to existing principal structures or portions of existing principal structures located less than seventy-five feet (75') from the OHWM which result in altering the exterior of the building envelope horizontally or vertically may be permitted provided they meet the following conditions:

- a. Structures 600 square feet or more. Structures with an existing enclosed, habitable footprint of six hundred square feet in size or larger may only be expanded landward away from the ordinary high water mark except as provided by ¶6.4.A.2. Such expansion may be no wider than the existing structure footprint (no sideways expansion), except for any portion of the expansion that is located seventy-five feet or more from the OHWM. The existing structure footprint excludes decks and overhangs. Decks and overhangs on expanded structures may not exceed the width of the existing decks and overhang.
- b. Structures less than 600 square feet. Structures with an existing enclosed, habitable footprint of less than six hundred square feet in size may be expanded only to the landward side of the structure away from the OHWM. Such alterations or additions which would increase the area or footprint of the structure shall not, over the lifetime of structure, increase that part of the structure's footprint located within seventy-five feet of the ordinary high water mark by more than fifty percent (50%) of the total square footage of the footprint as existing on the date on which this amendment takes effect. Such expansion may be no wider than the existing structure (no sideways expansion), excluding decks and overhangs. Decks and overhangs on expanded structures may not exceed the width of the existing deck and overhang.
- c. Vertical Expansions. No new stories or vertical expansions are permitted for any portion of an existing principal structure located closer than seventy-five feet from the OHWM, except that dormer windows may be permitted on a second story so long as the overall roof height does not exceed the maximum roof height of the existing structure or other building

height limitations. Any permitted rearward expansion is limited to the height of the existing principal structure, provided such expansion does not exceed other building height limitations.

- d. Basements. No new basements of a depth greater than six feet (6') are permitted for any portion of an existing principal structure located less than seventy-five feet from the ordinary high water mark. Rearward expansion of an existing basement is permitted at the same depth for the existing principal structure.

## 2. Alternate Expansion for Structures Greater Than 600 Square Feet

As an alternative to ¶6.4.1.a, structures may be expanded beyond 50 feet of the OHWM provided the following conditions are met:

- a. Existing structures shall possess a minimum footprint greater than 600 square feet of habitable area.
- b. The existing structure may only be expanded one time from the effective date of this ordinance.
- c. Expansion shall be limited to a maximum of 50% of the habitable living space of the structure.
- d. For existing structures within 50 feet of the OHWM, expansion may only occur landward away from the OHWM until the expansion extends to 50 feet of the OHWM.
- e. Sideways expansion parallel to the OHWM is permitted provided the expansion is located greater than 50 feet from the OHWM.
- f. New stories and vertical expansions are permitted provided the expansion is located greater than 50 feet from the OHWM and does not exceed other building height limitations.
- g. New basements are permitted for the portion of the existing structure or new expansion located greater than 50 feet from the OHWM.

## 3. Expansion of Existing Condominiums into Expansion Areas

When a condominium plat has been filed and recorded with the Register of Deeds prior to the date of enactment of this ordinance and the plat shows an expansion area for an existing structure, that existing structure may be expanded into the expansion area provided that the following conditions are met:

- a. Expansion shall be limited to a maximum of 50% of the habitable living space of the structure.
- b. For existing structures with 50 feet of the OHWM, expansion may only occur landward away from the OHWM until the expansion extends to 50 feet of the OHWM.
- c. Sideways expansion parallel to the OHWM is permitted provided the expansion is located greater than 50 feet from the OHWM.

- d. New stories and vertical expansion are permitted provided the expansion is located greater than 50 feet from the OHWM and does not exceed other building height limitations.
- e. New basements are permitted provided the expansion is located greater than 50 feet from the OHWM.

4. Additional Restrictions Applicable to All Existing Structures

- a. Side yard and rear yard setbacks  
Alterations or additions shall not encroach into any required side or rear yard setbacks beyond any existing encroachment. Any existing encroachment may be continued in expansions.
- b. Impervious Surface Area  
The total amount of impervious surface area including the expansion shall conform to Article IX.
- c. Mitigation is required pursuant to Article IX of this ordinance.
- d. Permit Required.  
A county zoning permit must be obtained for such alterations or additions. A shoreland alteration permit may also be required as specified in Article IX.
- e. Exceptions for Disabilities.  
Notwithstanding any other provision of this section, any principal structure located closer than seventy-five feet from the ordinary high water mark may be expanded in order to provide reasonable accessibility to the structure for people with permanent physical disabilities, subject to conditions in Article XI.

**B. Existing Non-Principal Structures.**

External alterations and additions to existing non-principal structures or portions of such structures located less than seventy-five feet (75') from the OHWM which result in altering the exterior building envelope horizontally or vertically are prohibited unless they conform to the requirements of Article VII.

## ***WAUPACA COUNTY***

### **8.3 NONCONFORMING STRUCTURES**

It is the intent of these provisions to balance the public objectives of this ordinance with the interests of owners of nonconforming structures by:

- 1) treating structures which are most nonconforming and therefore offensive to the objectives of this ordinance more restrictively than structures which are more nearly in compliance with ordinance provisions; and by

- 2) allowing for the improvement or expansion of principal structures essential to the reasonable use of a property provided the adverse effects of such improvements are adequately mitigated.

### ***8.31 General Provisions.***

- 1) Nonconforming accessory structures are limited to ordinary maintenance and repair and such alteration as shall bring them into greater compliance with terms and objectives of this ordinance. Such structures shall not be improved or expanded.
- 2) Nonconforming principal structures (buildings) may be improved internally or expanded provided that:
  - (a) modification or replacement of no more than 20% of the structural members of the existing exterior walls and roof is involved and
  - (b) the lifetime total of all expansions is limited to 50% of the structure's enclosed, footprint which existed at the time the structure became nonconforming except as provided by Section 8.32.
- 3) A structure that is nonconforming as to structural or dimensional standards may not be expanded or enlarged so as to increase its dimensional nonconformity.

### ***8.32 Shoreline Setback Nonconformities.***

- 1) A principal structure which is nonconforming as to shoreline setback and which is located within 50 feet of the ordinary High Water mark may be improved internally subject to the limitation of Section 8.31(2)(a) but may not be expanded. Such improvement shall be confined to enclosed portions of the building envelope which existed at the time the structure became nonconforming and shall not include new basements or additional stories. Replacement of roofing, siding and windows and upgrading of insulation are permitted.
- 2) A principal structure (of at least 750 sq. ft.) which is nonconforming as to shoreline setback and which is located between 50 feet from the ordinary High Water mark and the required setback may be expanded to a total of 1500 square feet of the footprint or 15% of the lot area within 200 ft. of the OHWM (including original building and expansion) whichever is greater. Such expansion shall be located on the landward side of the structure wherever practicable and shall not include new basements except that a new basement may be permitted for an expansion located to the landward side of the existing structure. An additional story no larger than the footprint of the original structure and not exceeding 28 ft. in height may be permitted. (Height shall be measured from the lowest exposed point of the structure to the peak of the roof.) Section 6.16 regarding vegetative cover area shall apply to such expansion.
- 3) In the application of sections 8.32 (1) & (2), a structure shall be regulated by the requirements of the most restrictive zone (0-50 or 50-required setback) in which it is located.
- 4) A plan to mitigate for the adverse effects of any shoreline setback nonconformity shall be implemented concurrent with external improvement or



expansion of such structures. The plan shall be approved by the zoning administrator prior to issuance of a zoning permit and shall include a compliance schedule.

\* \* \*

A deed restriction describing the agreed upon mitigative measures and requiring compliance by subsequent owners shall be executed and recorded by the property owner before the applicable building permit may be issued.

- 5) Conversion of Seasonal Residences. A nonconforming seasonal, residential structure may be converted to year around residential use:
- (a) the associated sanitary system is brought up to current standards for new construction [justified by increased loading of the system and authorized by DCOMM 83.055(3)(b)(1&3)];
  - (b) the existing structure (prior to upgrading) is constructed on a full foundation that extends at least 4 ft. below ground or one that is certified by a registered engineer or architect to be adequate for the proposed construction;
  - (c) No more than 20% of the structural members of the existing external walls and roof are modified or replaced; and
  - (d) The other requirements of this section are complied with.

# ***Nonconforming Structures Resources***

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## ***EDUCATIONAL MATERIALS***

**Managing Nonconforming Uses, Lots and Structures.** (2 pp., February 1999).

Defines nonconforming uses, lots and structures and as well as management options. Available from Wisconsin Association of Lakes, (800) 542-5253 or UWEX, Stevens Point at (715) 346-2116. Ask for fact sheet #9 of the Shoreland Management and Lake Classification Series.

**Nonconforming Development and the Vital Shore.** (2 pp., February 1999). Explains the issues surrounding nonconforming development and the historical management of it. Available from Wisconsin Association of Lakes, (800) 542-5253 or UWEX, Stevens Point at (715) 346-2116. Ask for fact sheet #8 of the Shoreland Management and Lake Classification Series.

## ***TECHNICAL RESOURCES***

**A Study of Nonconforming Use Policies in Wisconsin's Floodplains and Shorelands.** (76 pp., May 1995). This report provides background information on the regulation of nonconforming uses in Wisconsin's floodplains and shorelands. It also analyzes the effectiveness of the 50 percent rule by focusing on potentially problematic areas, including the wording of the 50 percent rule, and the interpretation of "structural repairs". Available from Wisconsin Department of Natural Resources, Dam Safety, Floodplain/Shoreland Zoning Section, (608) 266-8030.

**Zoning Case Law in Wisconsin: Cases Relevant to Shoreland and Floodplain Zoning in Wisconsin.** (70 pp., 2000). A summary of published decisions of the Wisconsin Supreme Court and Court of Appeals relating to floodplain and shoreland zoning. Available from Wisconsin Department of Natural Resources, Dam Safety, Floodplain/Shoreland Zoning Section, (608) 266-8030.